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PATENT

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Trudi Thompson

Applicant : Shane S. Taylor
Application No. : 10/614,395
Filed : July 3, 2003
Title : GAS VALVE

Confirmation No. 5914

Grp./Div. : 3753
Examiner : A. Michael Chambers
Docket No. : 58232/A647

PETITION TO REVIVE AND WITHDRAW HOLDING OF ABANDONMENT
UNDER 37 CFR § 1.181(a)

MAIL STOP PETITIONS

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Post Office Box 7068
Pasadena, CA 91109-7068
December 7, 2006

Commissioner:

In response to an Office communication dated October 10, 2006 indicating a notice of abandonment for the above-referenced patent application, Applicant hereby requests that the holding of abandonment be withdrawn and that the application be revived.

FACTS

Applicant received an Office communication dated March 31, 2006 (Exhibit 1) relating to a requirement for restriction/election. On August 18, 2006, a Revocation of Power of Attorney (Exhibit 2) was filed by Applicant's initial counsel, Mark J. Kertz of Knobbe Martens Olson & Bear, LLP (KMOB), attempting to revoke the power of attorney initially granted to KMOB. On August 30, 2006, Applicant received a Notice Regarding Power of Attorney (Exhibit 3) from the USPTO indicating that the attempted revocation of power of attorney was not accepted as the signature of a co-inventor was omitted. On October 2, 2006, Applicant's current counsel, David J. Bailey of Christie, Parker & Hale, LLP (CPH), filed a petition for an

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extension of time (Exhibit 4) authorizing the Commissioner for Patents to charge the fee to CPH's deposit account. Also on October 2, 2006, Applicant's current counsel, David J. Bailey of Christie, Parker & Hale, LLP (CPH), filed a Response to the Restriction Requirement (Exhibit 5) in response to the Office action dated March 31, 2006. Applicant received an Office communication dated October 10, 2006 (Exhibit 6) indicating that the application was abandoned in view of Applicant's failure to timely file a proper reply to the Office letter mailed on March 31, 2006. On November 3, 2006, Applicant's counsel, David J. Bailey of CPH, submitted a Substitution of Attorney With Change of Address for Correspondence including a new Power of Attorney (Exhibit 7). Applicant received an Office communication dated November 21, 2006 (Exhibit 8) indicating that new Power of Attorney had been accepted and that the correspondence address had been changed to CPH's mailing address.

PRAYER FOR RELIEF

Applicant submits that the Response to the Restriction Requirement (hereinafter "October Response") filed on October 2, 2006 in response to the Office action dated March 31, 2006 was a proper reply and timely filed.

Applicant submits that the October Response was proper. The MPEP section 37 CFR § 1.34 regarding "Acting in a Representative Capacity" is particularly relevant and states:

When a patent practitioner acting in a representative capacity appears in person or signs a paper in practice before the United States Patent and Trademark Office in a patent case, his or her personal appearance or signature shall constitute a representation to the United States Patent and Trademark Office that under the provisions of this subchapter and the law, he or she is authorized to represent the particular party on whose behalf he or she acts. In filing such a paper, the patent practitioner must set forth his or her registration number, his or her name and signature. Further proof of authority to act in a representative capacity may be required.

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Even if David J. Bailey and/or CPH were not listed as the attorney of record, the October Response should not be invalid for that reason. Applicant submits that David J. Bailey is a patent practitioner licensed to practice patent law before the USPTO under limited recognition number L0018 and that such registration number, his name and signature were set forth in the October Response. Accordingly, the signature of David J. Bailey set forth in the October Response constituted a representation to the USPTO that he was authorized to represent the Applicants. Applicant submits that the October Response was properly filed and that no defects were reported to Applicant or Applicant's current counsel.

Applicant submits that the October Response was timely filed. The MPEP section 37 CFR § 1.7(a) regarding "Times for Taking Action; Expiration on Saturday, Sunday or Federal Holiday" is particularly relevant and states:

(a) Whenever periods of time are specified in this part in days, calendar days are intended. When the day, or the last day fixed by statute or by or under this part for taking any action or paying any fee in the United States Patent and Trademark Office falls on Saturday, Sunday, or on a Federal holiday within the District of Columbia, the action may be taken, or the fee paid, on the next succeeding business day which is not a Saturday, Sunday, or a Federal holiday. See § 1.304 for time for appeal or for commencing civil action.

The six month deadline for the Office action dated March 31, 2006 was September 30, 2006, a Saturday. Accordingly, a response to the Office action dated March 31, 2006 could be timely filed on the next succeeding business day, Monday October 2, 2006. The October Response was filed on October 2, 2006. Accordingly, the October Response was timely filed.

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CONCLUSION

The October Response was proper and timely filed. Therefore, Applicants respectfully request that the holding of abandonment be withdrawn and that the application be revived.

The Commissioner is hereby authorized to charge any fees under 37 CFR 1.16 and 1.17 which may be required by this paper to Deposit Account No. 03-1728. Please show our docket

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Name: Office of Petitions

Art Unit:

From: David J. Bailey

Re:

Applicant : Shane S. Taylor
Application No. : 10/614,395
Filed : July 3, 2003
Title : GAS VALVE

File: 58232/A647

I HEREBY CERTIFY THAT THIS PAPER IS BEING FACSIMILE TRANSMITTED TO
THE UNITED STATES PATENT AND TRADEMARK OFFICE ON December 7, 2006.

Trudi Thompson

Trudi Thompson

*Correspondence:

1. PETITION TO REVIVE (4 PGS)
2. EXHIBITS 1-8 (22 PGS)

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